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AUDIO/VIDEO TRACKING SHEET

INVESTIGATIVE SUMMARY

OFFICER INVOLVED SHOOTING FORM

TRANSCRIBED INTERVIEWS

Deputy Arevalo **Deputy Magos** Deputy Roth Witness Witness Witness Witness Witness Witness Witness Suspect Joe Childs

Suspect Brendan Caveness

Suspect Michael Cones

EXHIBITS

- A. Homicide Book.
- B. Envelope containing 4 CD's.
- C. D.A. Filing.
- D. Photographs used during Deputy Arevalo's IAB interview.
- E. Photographs used during Deputy Magos' IAB interview.
- F. Photographs used during Deputy Roth's IAB interview.

MISCELLANEOUS DOCUMENTS

Administrative rights forms D.A. Letter Training Records Miscellaneous Documents

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

Date: May 29, 2013

File No.: 012-17235-2174-055

FROM:

WILLIAM J. MCSWEENEY, CHIEF TO:

LEROY D. BACA

DETECTIVE DIVISION

SHERIFF

SUBJECT:

LETTER OF OPINION ON DEPUTY INVOLVED SHOOTING

The attached Letter of Opinion was received from the District Attorney's Office regarding the case involving Deputies Gerardo Magos # Grant Roth and Armando Arevalo #

STATION:

Century

DATE / TIME OF SHOOTING:

November 16, 2012, 2132 Hours

SUSPECT #1:

CAVENESS, Brendan

MB/36 (Uninjured - In-Custody)

SUSPECT #2:

CHILDS, Joe

MB/24 (Injured – In-Custody)

SUSPECT #3:

CONES, Michael Jr.

MB/24 (Injured - In-Custody)

LOCATION:

81st Street/Parmalee Avenue

Los Angeles (Unincorporated Area)

DISTRICT ATTORNEY'S CONCLUSION:

The following is a verbatim statement from the District Attorney's Letter of Opinion.

"The evidence examined in this investigation shows that the deputies came under fire as they began to exit their vehicle. They returned fire in an attempt to save their own lives as well as those of their partners."

"Based on our examination of the evidence, we conclude that Deputies Magos, Roth and Arevalo acted in lawful self-defense and defense of another.

Therefore, we are closing our file and will take no further action in this matter."

WJM:DJH:no



LOS ANGELES COUNTY DISTRICT AT PRINEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN - Director

April 22, 2013

Captain Duane Harris Homicide Bureau Los Angeles County Sheriff's Department 5747 Rickenbacker Road Commerce, California 90040

Re: J.S.I.D. File # 12-0761

L.A.S.D. File # 012-17235-2174-055

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 16, 2012, non-fatal shooting of Brendan Caveness by Los Angeles County Sheriff's Deputies Gerardo Magos, Grant Roth and Armando Arevalo. It is our conclusion that the three deputies acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on November 16, 2012, at approximately 10:37 p.m. The District Attorney Response Team (DART), comprised of Deputy District Attorney Fernando Guzman and District Attorney Supervising Investigator Sang Kim, responded and was given a briefing and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office, by Sergeant Scott Hoglund, LASD Homicide Bureau. Deputies Magos, Roth and Arevalo provided voluntary statements to investigators which were considered as part of this analysis.

FACTUAL ANALYSIS

On Friday, November 16, 2012, at approximately 9:32 p.m., Deputies Gerardo Magos, Grant Roth and Armando Arevalo were assigned to LASD Century Station, Operation Safe Streets (OSS). While on routine patrol, driving west on 81st Street, they saw six to eight males standing on the northwest corner of 81st Street and Parmelee Avenue.

Knowing that this is a common loitering area for members of the 76 East Coast Crip'gang, the deputies attempted to make contact with the group. Magos was driving the unmarked silver Crown Victoria which had an emergency light bar mounted on the windshield visor area. The three deputies wore green LASD raid jackets with a cloth badge on the front, Sheriff's patches

WEBSITE: http://da.co.la.ca.us

Captain Harris April 22, 2013 Page 2 of 4

on the sleeves and the word "Sheriff" on the back. Roth sat in the front passenger seat and Arevalo sat in the right rear seat.

As the vehicle came to a stop and the deputies began to exit, three of the males began to disperse in different directions. Magos saw one male run south across 81st Street in front of the car while removing a handgun from his waistband. Arevalo saw two males reach for their waistbands and jog north on Parmelee Avenue.

Roth illuminated the group with his flashlight and shouted "Sheriff's Department!" Within two seconds, two of the males still standing on the corner began firing guns at the deputies. The two males who had gone north, returned to the group and also began firing at the deputies. Arevalo fell onto the back seat of the car and laid still. He did not return fire at that time.

Magos was hit in the torso by gunfire. Fearing for his life and those of his partners, Magos fired three or four rounds from his service weapon at the male in front of the car. The male continued running across the street and took cover behind a parked car.

Roth fired two rounds from his service weapon toward the group of males, before his weapon jammed.² When Roth announced that his weapon was jammed, Magos fired two rounds toward the group of males. Roth cleared the malfunction and fired two more rounds. The group of males was still firing at the deputies.

Magos shouted "I'm hit, I'm hit!" Roth responded "Get us out of here, step on the gas!" Magos accelerated, driving the car one block west to the corner of 81st Street and Zamora Avenue. The deputies exited the car and took cover behind a parked car. Arevalo requested assistance from other LASD units in the area.

Roth saw two males approaching their location from the east, walking on the south sidewalk of 81st Street. He shouted "They're coming!" The male who had earlier crossed the street in front of their car fired one or two rounds at the deputies. Magos fired two or three rounds back at him. Arevalo fired one round and his weapon jammed.

Assisting units responded and transported Magos to the hospital. The area was contained and a search began for suspects and witnesses.

Witness Statements

Joe Childs and Brendan Caveness denied involvement in the shooting. Michael Cones refused to provide any information and requested an attorney.

A spent casing failed to eject and became stuck in the slide of the weapon.

Three of the individuals firing weapons were later identified as Joe Childs, Brendan Caveness and Michael Cones.

Captain Harris April 22, 2013 Page 3 of 4

Investigators canvassed the area and asked residents if they witnessed the shooting. They were not able to identify any witnesses who saw the shooting. Several persons stated that they heard gunshots.

Further Investigation

Childs and Caveness were arrested at the house next door to where the group of males was standing. Caveness was treated for a grazing bullet wound to his head. Cones was arrested at a residence approximately one block southwest of the first shooting scene.³

A gun was found in the rear yard of the house next door to where Childs and Caveness were arrested. The gun was examined by the LASD Scientific Investigation Division (SID) and compared to two bullets removed from the deputies' vehicle and the bullet removed from Deputy Magos. SID determined that the three bullets were fired from the gun.

Gunshot residue examinations were performed on all three suspects. SID found gunshot residue on the hands of all three suspects.

Childs, Cones and Caveness were charged with the attempted murders of Magos, Roth and Arevalo in Los Angeles County Superior Court case number VA127548. The matter is scheduled for preliminary hearing setting on May 20, 2013.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

Under California law, a peace officer is entitled to use deadly force to capture a dangerous person who has committed a felony. A dangerous person is defined as one who (a) poses significant threat of death or serious bodily injury to the person attempting the apprehension or others, or (b) has committed a forcible and atrocious felony. *People v. Ceballos* (1974) 12 Cal.3d 470. A forcible and atrocious felony is one that by its nature and manner of its commission reasonably creates a fear of death or great bodily injury. CALCRIM No. 505 (bench notes); see also, *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516 ("police may use reasonable

³ All three suspects were arrested on the evening of the shooting.

Captain Harris April 22, 2013 Page 4 of 4

force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance..." [and] in virtue of a police officer's duty to act affirmatively to protect the public, a police officer is "entitled to the even greater use of force than might be, in the same circumstances, required for self-defense").

CONCLUSION

The evidence examined in this investigation shows that the deputies came under fire as they began to exit their vehicle. They returned fire in an attempt to save their own lives as well as those of their partners.

Based on our examination of the evidence, we conclude that Deputies Magos, Roth and Arevalo acted in lawful self-defense and defense of another. Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY District Attorney

FERNANDO GUZMAN

Deputy District Attorney

(213) 974-3888

c: Deputy Gerardo Magos, #

Deputy Grant Roth, #

Deputy Armando Arevalo,

761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: April 18, 2014

FILE NO:

OFFICE CORRESPONDENCE

FROM:

RALPS J. WEBB, COMMANDER

EAST PATROL DIVISION

TO: ALICIA E. AULT, CAPTAIN

INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE'S FINDINGS

Case Number:

SH2324519

Incident:

Hit Shooting

Incident Date:

November 16, 2012

Unit:

Operation Safe Streets Bureau

Suspects:

Joe T. Childs, MB/03-10-88

Brendan A. Caveness, MB/09-21-88 Michael D. Cones, MB/01-09-76

Involved Employees:

Deputy Gerado Magos, #

Deputy Grant Roth, #

Deputy Armondo Arevalo, #

EFRC Date:

April 17, 2014

The Executive Force Review Committee (EFRC) consisting of Commanders Ray Leyva, Patrick Maxwell, and Ralph Webb met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Law Enforcement officers may use deadly force in self-defense or in the defense of others only when they reasonably believe death or serious physical injury is about to be inflicted upon themselves or others.

FINDINGS:

On November 16, 2012, at 2130 hours, Detectives Gerardo Magos, Grant Roth, and Armando Arevalo assigned to Operation Safe Streets (OSS) Bureau were driving west on East 81st Street in the unincorporated area of Los Angeles.

They were driving an unmarked radio car and wearing their LASD Green Raid Jackets. Detective Magos was driving, Detective Roth was the front passenger, and Detective Arevalo was in the rear passenger seat. Detectives Magos and Arevalo were familiar with the area and knew the 76 East Coast Crips claimed this neighborhood as their turf.

Detective Magos received a cellular call from Detective Sardi who advised an informant told him several gang members from the 76 East Coast Crips were at the corner of East 81st Street and Parmelee Avenue, and one of them was in possession of a firearm. In search of the person with a gun, detectives detained and searched a bicyclist on Antwerp Street who matched the clothing description provided by the informant.

During this traffic stop Detective Magos received a second call from Detective Sardi who advised the bicyclist was the wrong person and there were now two individuals with firearms at the intersection. Detectives drove west on East 81st Street toward a group of seven to nine males standing at the northwest corner of East 81st and Parmalee Avenue.

Detective Magos slowed to a stop prior to entering the intersection and positioned the vehicle's headlights at the males. The detective overheard one of the males alert the group, "It's the cops." One male was standing inside the yard, leaning against a wall, at the corner house. A second male ran north from the yard to the rear yard of an adjacent property. A third male walked north (normal pace) on the sidewalk. A fourth male who stood at the north edge of the group, pulled a pistol from his waistband as he ran along the curb of Parmalee Avenue in front of the radio car. Detective Magos simultaneously veered the car toward this male. Detective Roth prepared to exit the vehicle, opening the door with his left hand, and pulling his H&K 45 with his right hand. Detective Arevalo simultaneously exited the vehicle.

Shots immediately begin striking the detectives, and they believed the rounds were coming from the north (Parmalee Street). Detective Roth stated two males from the group, who stood 20 feet in front of them, began shooting. Detective Roth returned fire via the passenger door, using the engine block as cover, as Detective Magos was hit in the stomach below his body armor on the second or third round.

Detective Magos saw the male who had crossed in front of their car turn toward them while holding the pistol. Believing the male was about to shoot, Detective Magos fired two-to-three rounds through the windshield from the driver's position. Detective Magos saw muzzle flash from behind a tree and also a male behind a car firing at them. Detective Roth yelled his gun had jammed and leaned forward toward the floorboard.

Detective Magos placed his hand on Detective Roth's back and fired two to three rounds over Detective Roth's back toward the muzzle flashes. Detective Arevalo dove into the rear seat for cover as the rounds begin striking the car.

Detective Magos accelerated west to avoid the gunfire and to request assistance. As they drove, Detective Roth, while still seated, engaged in a gun battle with a male who had flanked them along the passenger side of the vehicle. This male was a distance of 15 feet from the vehicle and ran after their vehicle while firing rounds at them.

Detective Magos stopped at the intersection of East 81st Street and Zamora Avenue and requested assistance. Once the detectives exited the car, Detective Roth looked east and saw a male still firing at them. Both Detectives Roth and Magos fired two-to-three rounds towards the male who turned and ran away.

The dynamic gun battle concluded. Century Station deputies responded and a containment of the area and tactical operation began in a search for the suspects. Detective Magos was driven to the old Firestone Station via radio car. He sustained a gunshot wound to his right lower abdomen and treated at Saint Francis Medical Center where he immediately underwent surgery.

Three documented "76 East Coast Crip" street gang members (Suspect Caveness, Childs, and Cones) were detained/arrested during the subsequent tactical operation.

Suspect Caveness sustained a grazing gunshot wound to the head. He was transported to USC Medical Center where the bullet fragment was removed from his scalp. He received an "ok to book" and was transported to Century Regional Detention Facility where he was charged for attempted murder of a police officer.

Suspect Childs sustained a dog bite. He was transported to Coast Plaza Hospital and received an "ok to book." He was booked at Century Regional Detention Facility for attempted murder of a police officer.

Suspect Cones was booked at Century Regional Detention Facility for attempted murder of a police officer.

The EFRC determined the force used against the aggressive suspects was within Department policy. The EFRC also determined the tactics used were within Department policy.

RECOMMENDATIONS:

The EFRC commended the deputies for their quick thinking during this incident while under fire and made no recommendations.

RJW:JER:jer

Los Angeles County Sheriff's Deportment Officer Involved Shooting

Page _1 of 5

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Report Date	11-16-	.12	8ureau/Station/Facility	OSS/ D	etective D	ivision	Admin. In	vest.?	Hit?	X		
				Incident Infor	NAMES OF				X W (X / X)			
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City or Station Century Sheriff's Station				Nature of Incident	Deputies	ettempt to con	tact 5-6 M/B	adults on	81st The	suspects		
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Last Name									M I			
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SH#	2324519	

Officer Involved Shooting URN: 012-17235-2174-055

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Arrival Date	11-16-12	Arrival Time 2130	Date Submitted 11-19-12	Date of Recommendation
mployee #	Last Name	Johnson	First Nam M	yron M.I
mployee #	Last Name	Hamil	First Name Je	effrey M.I
mployee #	Last Name	Carrizosa	First NameSI	ade M.I

				Shoot	ting / Force Informa	tion						
Meth	nod					Type of Injury				Body Part Injure		
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FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S-1	E-1	FH	SW	40	N	N	GS	AD
S-1	E-2	FH	SW	40	N	N	NN	NN
S-1	E-3	FH	SW	40	N	N	NN	NN
S-2	E-1	FH	NN	NN	N	N	NN	NN
S-2	E-2	FH	NN	NN	N	N	NN	NN
S-2	E-3	FH	NN	NN	N	N	NN	NN
S-3	E-1	FH	NN	NN	N	N	NN	NN
S-3	E-2	FH	NN	NN	N	N	NN	NN
S-3	E-3	FH	NN	NN	N	N	NN	NN
E-1	S-1	FH	BR	9	Y	Y	NN	NN
E-2	S-1	FH	HK	45	Y	Y	GS	HE
E-3	S-1	FH	BR	9	Y	Y	NN	NN
Ë-1	S-2	FH	BR	9	Y	Y	NN	NN
E-2	S-2	FH	HK	45	Y	Υ	NN	NN
E-3	S-2	FH	BR	9	Y	Y	NN	NN
E-1	S-3	FH	BR	9	Y	Υ	NN	NN
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E-3	S-3	FH	BR	9	Y	Y	NN	NN

Officer Involved Shooting Involved Employee Information

URN: 012-17235-2174-055

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			Involved Employee		Page _3 of _5
- 4	Employee #	Last Name	mronos Empojos	First Name	M.I.
E_1_		Magos	1	Gerado	
	Sex: Race: H	Rank Deputy	Unit Assignment: OSS/ Detective Division		
	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty	Intoxication/Drug Usage?	Substance Used:	
	Hospital Admission?	Hospital Name: St. Francis	Coroner Case?	Coroner Case #	Interviewed?
	Hrs of sleep prior to shooting:	Weight: 100	g (circle only one) Clothes no Vest Raid Jacket w/ Vest Clothes w/ Vest Uniform no Vest Jacket no Vest Uniform w/ Vest	Other Factors:	
	Range Qualification Date:		Qualification Date:	Laser Training Date:	
	Certified with Weapon's	Patrol Certification? Certifi	cation Unit: Prior Shoo	etings? Number of Prior 1	Directed Force:
	Weapons Fired Brand: Beretta	Caliber 9mm #	Shots 6 Weapons Fired Brand:	Caliber	# Shots
	Field Training Officer Emp #	Last Name		First Name	M.I.
	Field Training Officer Emp #	Last Name		First Name	M,I,
E 2	Employee # Sex: Race:	Last Name Roth	Unit Assignment:	First Name Grant Work Assignment (Unit #, Module, et	M.I. E
	M W	Deputy	OSS/ Detective Division	210G8	
	ShiftTime (clicle only one) EM PM Day	ShiftType (circle only one) Regular Overtime Off Outy	Intoxication/Drug Usage?	Substance Used:	
	Hospital Admission?	Hospital Name:	Coroner Case?	Coroner Case #	Interviewed?
	Age. Height: 6 Range Qualification Date:	Weight: Plain Plain S'0" 240 Raid	G (circle only one) Clothes no Vest Clothes w/ Vest Uniform no Vest Jacket no Vest Qualification Date:	Other Factors: Laser Training Date:	
	Certified with Wesport Used?	Patrol Certification? Certifi	cation Unit: Prior Sho	ootings? Number of Prior Shootings: 2	Directed Force:
	Weapons Fired Brand: Heckler&K	och Caliber #	Shots 10 Weapons Fired Brand:	Caliber	# Shots
	Field Training Officer Emp #.	Last Name		First Name	M.I.
	Field Training Officer Emp#	Last Name		First Name	M.I.
E_3	Employee #	Last Name Arevalo		First Name Armondo	M.I.
	Sex: Race: H	Rank	Unit Assignment: OSS/ Detective Division	Work Assignment (Unit #, Module, et 210G3	
	ShiftTime (circle only one). EM (PM) Day	ShiftType (circle only one). (Regular) Overtime Off Duty	Intoxication/Drug Usage?	Substance Used:	
	Hospital Admission?	Hospital Name:	Coroner Case?	Coroner Case #	Interviewed?
	Hrs of sleep prior to shooting:		g (circle only one) Glothes no Vest Raid Jacket w/ Vest	Other Factors:	
	Age: Height:	Weight: Plain	Clothes w/ Vest Uniform no Vest Jacket no Vest Uniform w/ Vest		
	Range Qualification Date:		hualification Date:	Laser Training Date:	
	Certified with Weapor	Patrol Certification? Certifi	cation Unit: Prior Sho	otings? Number of Prior Shootings: 2	Directed Force:
	Weapons Fired Brand: Beretta	Caliber 9mm #	Shots Weapons Fired Brand:	Caliber	# Shots
	Field Training Officer Emp #	Last Name		First Name	M.L.
	Field Training Officer Emp#	Last Name		First Name	M.L.

Officer Involved Shooting URN: 012-17235-2174-055

Suspect Information Suspect Information Last Name Childs First Name Joe \$ 1 Т AKA Last Name First Name M.I. Street Addres State & Zip Code City Work Phone: N/A Home Phone Social Security # Driver's Licena Age: 24 D.O.B. 03-10-88 Height 5'7" Weight 190 CII# Booking # 3372410 Primary Charge: 664/187(a) P.C Secondary Charge: Substance Used: Coroner Case? Intoxication/Drug Usage? Armed? Apprehended? Mental Illness? Criminal History? Model: Vehicle Make Year: Last Name Caveness First Name Brendan S 2 Α AKA Last Name First Name Street Address: City Black Work Phone: N/A Home Phone: Social Security # Driver's Licer Age: 24 D.O.B. 09-21-88 Height: 6'2" Weight: 200 CII# Booking # 3372710 Secondary Charge: 664/187(a) P.C Coroner Case # Substance Used Coroner Case? Intoxication/Drug Usage? Armed? Apprehended? Mental Illness? Criminal History? Vehicle Make Model: Year Last Name Cones First Name Michael D AKA Last Name First Name State & Zip Code Street Address City Black Work Phone: N/A Home Phone: Social Security Driver's Licens Age: 36 D.O.B. 01-09-76 Height: 5'9" Weight: 180 CII# Booking # 3372410 Primary Charge: Secondary Charge: 664/187(a) P.C Coroner Case # Substance Used: Coroner Case? Intoxication/Drug Usage? Armed? Apprehended? Mental Illness? Criminal History? Vehicle Make Last Name **First Name** MI AKA Last Name First Name M.L. Race: Street Address: City State & Zip Code: Social Security #: Hame Phone: Work Phone: Driver's License #: D.O.B. Height: Weight: FBI# Cli# Booking # Primary Charge: Secondary Charge: Coroner Case # Substance Used: Coroner Case? Intoxication/Drug Usage? Armed? Apprehended? Mental Illness? Criminal History? Vehicle Make Model: Year.

SUPPLEMENTAL NON-EMPLOYET WITNESSES Los Angeles County Sheriff's Department

5 of 5 Page Non-Employee Witnesses Last Name First Name M.I. Zip Code Street Address Work Ph Home Ph First Name Last Name Zip Code Work Ph Home Ph Street Address M.I. Last Name First Name Street Address Zip Code Work Ph First Name Lasi Name Street Address Zip Code Work Ph Last Name First Name M.I. Work Ph Home Ph Street Address Zip Code M.I. Last Name First Name Street Address Zip Code Work Ph Home Ph Last Name First Name M.I. Zip Code Work Ph Home Ph Street Address Last Name First Name Home Ph Street Address Zip Code Work Ph M.I. Last Name First Name Work Ph Home Ph Street Address Zip Code M.I. Last Name First Name Zip Code Work Ph Home Ph Street Address Last Name First Name M.I. Home Ph Street Address Zip Code Work Ph M.I. First Name Last Name Home Ph Street Address Zip Code Work Ph Last Name First Name M.I. Zip Code Work Ph Home Ph Street Address M.I. Last Name First Name Zip Code Work Ph Home Ph Street Address M.I. Last Name First Name Home Ph Zip Code Work Ph Street Address M.I. Last Name First Name Zip Code Work Ph Home Ph Street Address